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In re the Matter of:) Case No.: 07-046
)
State of New Hampshire Banking) Order to Show Cause
)
Department,)
)
Petitioner,)
)
and)
)
Professional Mortgage Corporation of)
)
America,)
)
Respondent)

This Order commences an adjudicative proceeding under the provisions of RSA 397-A:17, RSA 541-A and BAN 200.

Pursuant to RSA 397-A:17, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue an order to show cause why license revocation penalties for violations of New Hampshire Banking laws should not be imposed.

Pursuant to RSA 397-A:21, the Commissioner has the authority to suspend, revoke or deny any license and to impose administrative penalties of up to \$2,500.00 for each violation of New Hampshire banking law and rules.

The above named respondent has the right to request a hearing on this Order to Show Cause, as well as the right to be represented by counsel at the Respondent's own expense. All hearings shall comply with RSA 541-A. Any such request for a hearing shall be in writing, and signed by the respondent or the duly authorized agent of the above named respondent, and shall be

1 delivered either by hand or certified mail, return receipt requested, to the
2 Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH
3 03301. Such hearings will be scheduled within 10 days of the request. If the
4 Respondent fails to appear at the hearing after being duly notified, such
5 person shall be deemed in default, and the proceeding may be determined against
6 the Respondent upon consideration of the Order to Show Cause, the allegations
7 of which may be deemed to be true. Respondents are entitled to at least 30
8 days' notice regarding the hearing date.

9 If the Respondent fails to request a hearing within 30 calendar days of
10 receipt of such order or reach formal settlement with the Department within
11 that time frame, then such person shall likewise be deemed in default, and the
12 orders shall, on the thirty-first day, become permanent, and shall remain in
13 full force and effect until and unless later modified or vacated by the
14 commissioner, for good cause shown.

15 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

16 The Staff Petition dated March 1, 2007 (a copy of which is attached
17 hereto) is incorporated by reference hereto.

18 **ORDER**

19 WHEREAS, finding it necessary and appropriate and in the public
20 interest, and consistent with the intent and purposes of the New Hampshire
21 banking laws, and

22 WHEREAS, finding that the allegations contained in the Staff Petition,
23 if proved true and correct, form the legal basis of the relief requested,

24 It is hereby ORDERED, that the Respondent shall show cause why:

25 1. Administrative penalties of \$2,500.00 should not be imposed;

and

2. Respondent's license should not be revoked; and

It is hereby ORDERED that:

3. Respondent shall immediately pay the statutory penalty of \$6,250 for late submission of materials; and

4. Failure to request a hearing within 30 days of the date of receipt of this Order shall result in a default judgment being rendered, license revocation and administrative penalties imposed upon the defaulting Respondent.

SIGNED,

Dated: 3/1/07

/S/
PETER C. HILDRETH
BANK COMMISSIONER

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9677 0476) referencing the first letter and requesting the materials again. The Respondent received and signed for the mail piece on or about November 29, 2006.

5. The Department attempted to contact the Respondent a third time, via telephone, on February 2, 2007.

6. To date, the Respondent has failed to provide any exam materials to the Department.

7. The number of days between October 5, 2006 and today's date after subtracting the 21 day period allowed by statute is 125.

ISSUES OF LAW

II. The staff of the Department, alleges the following issues of law:

1. The Department realleges the above stated facts in paragraphs 1 through 7.

2. The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage broker activities pursuant to NH RSA 397-A:3.

3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the Department may examine the business affairs of any licensee or any other person, whether licensed or not, as it deems necessary to determine compliance with this Chapter and the rules adopted pursuant to it and with the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.). In determining compliance, the Department may examine the books, accounts, records, files, and other documents or matters of any licensee or person. RSA 397-A:12 further requires every person being examined, and all

1 of the officers, directors, employees, agents, and
2 representatives of such person shall make freely available to
3 the commissioner or his examiners, the accounts, records,
4 documents, files, information, assets, and matters in their
5 possession or control relating to the subject of the examination
6 and shall facilitate the examination. The Respondent violated
7 this provision by failing to provide the examination materials
8 in a timely fashion as required in the First Day Letter.

9 4. Pursuant to RSA 397-A:11 if Respondents maintain their business
10 records and files in another state they are required to return
11 them to New Hampshire. Failure to do so subjects licensees to a
12 penalty of \$50 per day after the 21st day.

13 5. RSA 397-A:17 II allows the Department to immediately suspend a
14 license for 30 days pending the investigation of that licensee.

15 6. RSA 397-A:21 IV provides that any person who, either knowingly
16 or negligently, violates any provision of Chapter 397-A, may
17 upon hearing, and in addition to any other penalty provided for
18 by law, be subject to an administrative fine not to exceed
19 \$2,500, or both. Each of the acts specified shall constitute a
20 separate violation, and such administrative action or fine may
21 be imposed in addition to any criminal penalties or civil
22 liabilities imposed by New Hampshire Banking laws.

23 **RELIEF REQUESTED**

24 III. The staff of the Department requests the Commissioner take the
25 following Action:

1. Find as fact the allegations contained in section I of this petition;
2. Make conclusions of law relative to the allegations contained in section II of the this petition;
3. Order Respondent to Show Cause why its license should not be revoked;
4. Assess fines and administrative penalties in accordance with RSA 397-A:21, for violations of Chapter 397-A, in the number and amount equal to the violations set forth in section II of this petition; and
5. Order Respondent to pay the statutory penalty from RSA 397-A:11.
6. Take such other administrative and legal actions as necessary for enforcement of the New Hampshire Banking Laws, the protection of New Hampshire citizens, and to provide other equitable relief.

RIGHT TO AMEND

IV. The Department reserves the right to amend this Staff Petition and to request that the Commissioner take additional administrative action. Nothing herein shall preclude the Department from bringing additional enforcement action under RSA 397-A or the regulations thereunder.

Respectfully submitted by:

/s/
James Shepard
Staff Attorney

3/1/07
Date